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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 AMERICAN CIVIL RIGHTS FOUNDATION,
18 a non-profit, public benefit corporation,

19 Plaintiff,

20 v.

21 CITY OF OAKLAND, CALIFORNIA, a
22 political subdivision of the State of California,
and the PORT OF OAKLAND, a public entity,

23 Defendants.
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CASE NO. CV 07-6058 (JCS)

**DEFENDANTS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS (FRCP 12(b)(6))**

Date: January 18, 2008
Time: 9:30 A.M.
Courtroom: A
Judge: Hon. Joseph C. Spero

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Defendants respectfully requests the Court, pursuant to Federal Rules of Evidence Rule 201,
3 take judicial notice of the following documents attached hereto:

4 Exhibit 1: Ordaining Clause of the Charter of the City of Oakland

5 Exhibit 2: Articles VI and VII of the Charter of the City of Oakland

6 Exhibit 3: Port of Oakland, Budget Summary FY 2005-2006

7 Exhibit 4: Port of Oakland, Budget Summary FY 2006-2007

8 Exhibit 5: Port of Oakland, Budget Summary FY 2007-2008

9 Exhibit 6: City of Oakland, Budget-in-Brief FY 2005-2007

10 Exhibit 7: City of Oakland, Adopted Policy Budget, 2007-2009

11 Exhibit 8: Airport Compliance Requirements, USDOT/FAA Order 5190.6A

12 Exhibit 9: Department of Transportation, Sample Airport Concession DBE
13 Program

14 Exhibit 10: Participation by Disadvantaged Business Enterprises in Airport
15 Concessions, 49 C.F.R. Part 23.

16 Exhibit 11: Participation by Disadvantaged Business Enterprises in Department of
17 Transportation Financial Assistance Programs, C.F.R. Part 26 (relevant
18 portions)

19 Exhibit 12: Grant Agreement, Date of Offer July 21, 2005; Project No. 03-06-
20 0170-37, including Grant Assurances

21 Exhibit 13: Grant Agreement, Date of Offer September 6, 2005; Project No. 03-
22 06-0170-39, including Grant Assurances

23 Exhibit 14: Grant Agreement, Date of Offer August 1, 2006; Project No. 03-06-
24 0170-40, including Grant Assurances

25 Exhibit 15: Board of Port Commissioners, City of Oakland; Resolution No. 05253
26 Resolution Approving and Adopting the Port's New Airport
27 Concession Disadvantaged Business Enterprise (ACDBE) Program and
28 ACDBE Goal and Methodology Report

Exhibit 16: Letter from the FAA dated March 24, 2006

Judicial notice may be taken of “adjudicated facts” and other facts not subject to reasonable dispute and either “generally known” in the community or “capable of accurate and ready determination by reference to sources whose accuracy cannot reasonably be questioned” (FRE Rule 201(b).) The above-referenced items are public records of public governmental bodies and thus are proper subjects for judicial notice.

Dated: December 7, 2007

Respectfully submitted,

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: /S/

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PORT OF OAKLAND

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